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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,866	06/20/2000	Michael James Heller	255/040	5697

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EXAMINER

FORMAN, BETTY J

ART UNIT PAPER NUMBER

1634

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/597,866

Applicant(s)

HELLER ET AL.

Examiner

BJ Forman

Art Unit

1634

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,4,7-9,13 and 15-18.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


The proposed amendments will not be entered for numerous reasons.

First, Claims 1, 2, 4, 7-9, 13, 15-18 (eleven claims) stand finally rejected while the amendments add new Claims 49-69 (twenty claims). As such, the amendments present additional claims without canceling a corresponding number of finally rejected claims.

Second, the new claims are drawn to different and multiple patently distinct inventions from that previous examined. Claims 1, 2, 4, 7-9, 13, 15-18 are drawn to an apparatus comprising a biochip having an active area comprising a plurality of electronically addressable microlocation comprising an electrode and a permeation layer and a fluidic system. In contrast, new Claims 49-55 are drawn to a method for enhanced detection of nucleic acids and new Claims 56-69 are drawn to an apparatus comprising a printed circuit board, a biochip having an active area, an adhesive that mounts the biochip, a permeation layer, a fluidic system comprising an inlet and outlet and an optical window. As such, the amendments introduce new inventions not previously examined.

Third, the amendments raise a multitude of new issues which would require further search and consideration e.g. adhesive mounts, optical window, and method steps for enhanced nucleic acid detection. As such, the amendments would require further search and consideration.

BJ Forman, Ph.D.


B.J. FORMAN
PATENT EXAMINER